CITY COUNCIL ATLANTA, GEORGIA

An Ordinance by
Councilmember Debi Starnes
As Substituted By Full Council

04-0-1425

AN ORDINANCE TO SET THE TERMS OF THE CITY OF ATLANTA'S WATER AND WASTEWATER REVENUE BONDS, SERIES 2004, INCLUDING PRINCIPAL AMOUNTS, INTEREST RATES, MATURITY DATES, AND REDEMPTION PROVISIONS, AND FOR OTHER RELATED PURPOSES.

SUPPLEMENTAL SERIES 2004 BOND ORDINANCE

WHEREAS, the City of Atlanta (the "City") adopted its Series 2004 Bond Ordinance (No. 04-0-1371) (the "Original Ordinance") on August 16, 2004, authorizing the issuance and sale of its Water and Wastewater Revenue Bonds, Series 2004 (the "Series 2004 Bonds"), for the purpose of financing the costs of making additions, extensions, and improvements to the City's existing water and sewer system; and

WHEREAS, certain capitalized terms used in this Supplemental Series 2004 Bond Ordinance (this "Supplemental Ordinance") shall have the meaning given to them in the Original Ordinance; and

WHEREAS, the Original Ordinance provides that the Series 2004 Bonds (1) shall be issued in an original aggregate principal amount to be specified in a Supplemental Ordinance to be adopted by the Governing Body, but which shall not in any event exceed a maximum aggregate principal amount of \$953,260,000, (2) shall bear interest at the rates per annum to be specified in a Supplemental Ordinance to be adopted by the Governing Body (but which shall not in any event exceed a maximum per annum rate of interest of 7.00%), computed on the basis of a 360-day year consisting of twelve 30-day months, payable on November 1, 2004, and semiannually thereafter on each May 1 and November 1 of each year and shall mature on November 1, in the years (with a term not exceeding 40 years) and in the principal amounts to be specified in a Supplemental Ordinance to be adopted by the Governing Body (provided the principal of and interest on the Series 2004 Bonds payable in any Fiscal Year shall not in any event exceed a maximum amount of \$65,833,970), unless earlier called for redemption, (3) that mature on November 1 of the years to be specified in a Supplemental Ordinance to be adopted by the Governing Body will be Term Bonds, and (4) will be subject to optional and mandatory redemption prior to maturity as specified in a Supplemental Ordinance to be adopted by the Governing Body;

NOW, THEREFORE, The City Council of the City of Atlanta, Georgia, hereby ordains as follows:

- Section 1. <u>Ratification of Prior Actions</u>. All actions heretofore taken by the Governing Body and the officers and agents of the City directed toward the issuance and sale of the Series 2004 Bonds be and the same are hereby ratified, approved, and confirmed.
- Section 2. <u>Definitions</u>. The definitions contained in the Original Ordinance, particularly Article I thereof, are hereby supplemented as follows, and the following terms shall have the meanings specified below, unless the context clearly requires otherwise.



"Series 2004 Credit Facility" means the municipal bond insurance policy issued by the Series 2004 Credit Issuer that guarantees payment of principal of and interest on the Series 2004 Bonds.

"Series 2004 Credit Issuer" means Financial Security Assurance Inc., a New York stock insurance company, or any successor thereto or assignee thereof.

Section 3. Series 2004 Bond Details. The Series 2004 Bonds shall be issued in the original aggregate principal amount of \$849,330,000. The Series 2004 Bonds shall bear interest at the rates per annum set forth below, computed on the basis of a 360-day year consisting of twelve 30-day months, payable on November 1, 2004, and semiannually thereafter on each May 1 and November 1 of each year and shall mature on November 1, in the years and in the principal amounts as follows, unless earlier called for redemption:

Year of Maturity	Principal <u>Amount</u>	Interest <u>Rate</u>
2006	\$8,225,000	3.000%
2007	1,660,000	2.500
2007	6,815,000	4.000
2008	700,000	2.750
2008	8,090,000	4.000
2009	1,385,000	3.000
2009	7,745,000	5.000
2010	9,560,000	3.250
2011	9,870,000	5.000
2012	425,000	4.125
2012	9,940,000	5.000
2013	10,880,000	3.500
2014	11,260,000	5.250
2015	11,850,000	5.250
2016	12,470,000	5.000
2017	13,095,000	5.000
2018	13,750,000	5.000
2019	14,440,000	5.000
2020	15,160,000	5.000
2021	15,915,000	5.000
2022	16,715,000	5.000
2023	17,550,000	5.000
2024	18,425,000	5.000
2025	19,350,000	5.750
2026	20,460,000	5.750
2027	21,635,000	5.750
2028	22,880,000	5.750
2029	24,195,000	5.750
2030	25,590,000	5.750
2034	116,630,000	5.000
2037	103,685,000	5.000
2043	258,980,000	5.000

The Series 2004 Bonds that mature on November 1, 2034, November 1, 2037, and November 1, 2043 are Term Bonds.

- Series 2004 Bonds maturing on or before November 1, 2014, and on November 1, 2025 through November 1, 2030, may not be called for optional redemption prior to maturity. The Series 2004 Bonds maturing on or after November 1, 2015 (except for the Series 2004 Bonds maturing on November 1, 2025 through November 1, 2030), are subject to redemption prior to maturity at the option of the City on or after November 1, 2014, in whole at any time or in part on any Interest Payment Date, at the redemption price of 100% of the principal amount thereof plus accrued interest on such redemption date.
- (b) In addition, the Series 2004 Bonds that are Term Bonds are subject to mandatory redemption prior to maturity on November 1 of the years, in the amounts, and at the prices provided below.

As and for a sinking fund for the retirement prior to maturity of the Series 2004 Bonds, there shall be deposited in the Principal Subaccount from the Revenue Fund an amount sufficient to redeem the following principal amounts of the Series 2004 Bonds maturing on November 1, 2034, November 1, 2037, and November 1, 2043, on the dates (each such date being referred to as a "mandatory redemption date") specified:

Series 2004 Bonds Maturing November 1, 2034

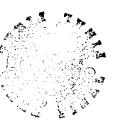
November 1 of the Year	Principal Amount
2031	\$27,060,000
2032	28,410,000
2033	29,835,000
2034+	31,325,000

+ Final Maturity

Series 2004 Bonds Maturing November 1, 2037

November 1 of the Year	Principal Amount
2035	\$32,890,000
2036	34,535,000
2037+	36,260,000

+ Final Maturity



Series 2004 Bonds Maturing November 1, 2043

November 1 of the Year	Principal Amount
2038	\$38,075,000
2039	39,980,000
2040	41,975,000
2041	44,075,000
2042	46,280,000
2043+	48,595,000

+ Final Maturity

The City shall redeem such an aggregate principal amount of the Series 2004 Bonds at a redemption price equal to the principal amount thereof plus the interest due thereon to the mandatory redemption date.

Section 5. <u>Authorization of Series 2004 Credit Facility</u>. The City hereby authorizes the purchase of the Series 2004 Credit Facility from the Series 2004 Credit Issuer.

- Section 6. Provisions Relating to the Series 2004 Credit Facility. (a) The Series 2004 Credit Issuer shall be deemed to be the sole holder of the Series 2004 Bonds insured by it for the purpose of exercising any voting right or privilege or giving any consent or direction or taking any other action that the holders of the Series 2004 Bonds insured by it are entitled to take pursuant to the Bond Ordinance. The maturity of Series 2004 Bonds insured by the Series 2004 Credit Issuer shall not be accelerated without the consent of the Series 2004 Credit Issuer.
- (b) As long as Series 2004 Bonds insured by the Series 2004 Credit Issuer are outstanding, the City's failure to pay the purchase price on variable rate demand obligations shall not be an Event of Default under the Bond Ordinance.
- (c) The Series 2004 Credit Issuer is and shall be deemed to be a third party beneficiary of the Bond Ordinance.
- (d) No modification, amendment, or supplement to the Bond Ordinance or any other transaction document (each a "Related Document") may become effective except upon obtaining the prior written consent of the Series 2004 Credit Issuer.
- (e) Copies of any modification or amendment to the Bond Ordinance or any other Related Document shall be sent to Standard and Poor's and Moody's at least 10 days prior to the effective date thereof.
- (f) The rights granted to the Series 2004 Credit Issuer under the Bond Ordinance or any other Related Document to request, consent to, or direct any action are rights granted to the Series 2004 Credit Issuer in consideration of its issuance of the Series 2004 Credit Facility. Any exercise by the Series 2004 Credit Issuer of such rights is merely an exercise of the Series 2004 Credit Issuer's contractual rights and shall not be construed or deemed to be taken for the benefit or on behalf of the Bondholders nor does such action evidence any position of the Series 2004



Credit Issuer, positive or negative, as to whether Bondholder consent is required in addition to consent of the Series 2004 Credit Issuer.

- (g) To accomplish defeasance of Series 2004 Bonds insured by the Series 2004 Credit Issuer, the City shall cause to be delivered (i) a report of an independent firm of nationally recognized certified public accountants or such other accountant as shall be acceptable to the Series 2004 Credit Issuer ("Accountant") verifying the sufficiency of the escrow established to pay such Series 2004 Bonds in full on the maturity or redemption date ("Verification"), (ii) an Escrow Deposit Agreement (which shall be acceptable in form and substance to the Series 2004 Credit Issuer), and (iii) an opinion of nationally recognized bond counsel to the effect that the Series 2004 Bonds are no longer "Outstanding" under the Bond Ordinance; each Verification and defeasance opinion shall be acceptable in form and substance, and addressed, to the City and the Series 2004 Credit Issuer. In the event a forward purchase agreement will be employed in the refunding, such agreement shall be subject to the approval of the Series 2004 Credit Issuer and shall be accompanied by such opinions of counsel as may be required by the Series 2004 The Series 2004 Credit Issuer shall be provided with final drafts of the above-referenced documentation not less than five business days prior to the funding of the escrow. Such Series 2004 Bonds shall be deemed "Outstanding" under the Bond Ordinance unless and until they are in fact paid and retired or the above criteria are met.
- (h) Amounts paid by the Series 2004 Credit Issuer under the Series 2004 Credit Facility shall not be deemed paid for purposes of the Bond Ordinance and shall remain Outstanding and continue to be due and owing until paid by the City in accordance with the Bond Ordinance.
- (i) The Bond Ordinance shall not be discharged unless all amounts due or to become due to the Series 2004 Credit Issuer have been paid in full or duly provided for.
- (j) The Series 2004 Credit Issuer shall, to the extent it makes any payment of principal of or interest on the Series 2004 Bonds, become subrogated to the rights of the recipients of such payments in accordance with the terms of the Series 2004 Credit Facility.
- (k) The Series 2004 Credit Issuer reserves the right to charge a reasonable fee as a condition to executing any amendment, waiver, or consent proposed in respect of the Bond Ordinance or any other Related Document.
- (1) The Series 2004 Credit Issuer shall be entitled to pay principal or interest on the Series 2004 Bonds it insures that shall become Due for Payment but shall be unpaid by reason of Nonpayment by the City (as such terms are defined in the Series 2004 Credit Facility) and any amounts due on such Series 2004 Bonds as a result of acceleration of the maturity thereof in accordance with the Bond Ordinance, whether or not the Series 2004 Credit Issuer has received a Notice of Nonpayment (as such terms are defined in the Series 2004 Credit Facility) or a claim upon the Series 2004 Credit Facility.
- (m) The notice address of the Series 2004 Credit Issuer is: Financial Security Assurance Inc., 350 Park Avenue, New York, New York 10022-6022, Attention: Managing Director -- Surveillance; Re: Policy No._______, Telephone: (212) 826-0100; Telecopier: (212) 339-3529. In each case in which notice or other communication refers to an Event of Default,



then a copy of such notice or other communication shall also be sent to the attention of General Counsel and shall be marked to indicate "URGENT MATERIAL ENCLOSED."

- (n) The Series 2004 Credit Issuer shall be provided with the following information:
- (i) Annual audited financial statements within 120 days after the end of the City's fiscal year and the City's annual budget within 30 days after the approval thereof;
- (ii) Notice of any draw upon the Debt Service Reserve Account within two business days after knowledge thereof other than (i) withdrawals of amounts in excess of the Debt Service Reserve Requirement and (ii) withdrawals in connection with a refunding of Senior Bonds;
- (iii) Notice of any default known to the Paying Agent within five business days after knowledge thereof;
- (iv) Prior notice of the advance refunding or redemption of any of the Senior Bonds, including the principal amount, maturities, and CUSIP numbers thereof;
- (v) Notice of the resignation or removal of the Paying Agent or the Bond Registrar and the appointment of, and acceptance of duties by, any successor thereto;
- (vi) Notice of the commencement of any proceeding by or against the City commenced under the United States Bankruptcy Code or any other applicable bankruptcy, insolvency, receivership, rehabilitation, or similar law (an "Insolvency Proceeding");
- (vii) Notice of the making of any claim in connection with any Insolvency Proceeding seeking the avoidance as a preferential transfer of any payment of principal of, or interest on, the Senior Bonds;
- (viii) A full original transcript of all proceedings relating to the execution of any amendment or supplement to the Related Documents; and
- (ix) All reports, notices, and correspondence to be delivered under the terms of the Related Documents.
- Section 7. Claims Upon the Series 2004 Credit Facility and Payments by and to the Series 2004 Credit Issuer. If, on the third business day prior to the related scheduled interest payment date or principal payment date ("Payment Date") there is not on deposit with the Paying Agent, after making all transfers and deposits required under the Bond Ordinance, moneys sufficient to pay the principal of and interest on the Series 2004 Bonds insured by the Series 2004 Credit Issuer due on such Payment Date, the Paying Agent shall give notice to the Series 2004 Credit Issuer and to its designated agent (if any) (the "Series 2004 Credit Issuer's Fiscal Agent") by telephone or telecopy of the amount of such deficiency by 12:00 noon, New York City time, on such business day. If, on the second business day prior to the related Payment Date, there continues to be a deficiency in the amount available to pay the principal of and interest on such Series 2004 Bonds due on such Payment Date, the Paying Agent shall make



a claim under the Series 2004 Credit Facility and give notice to the Series 2004 Credit Issuer and the Series 2004 Credit Issuer's Fiscal Agent (if any) by telephone of the amount of such deficiency, and the allocation of such deficiency between the amount required to pay interest on such Series 2004 Bonds and the amount required to pay principal of such Series 2004 Bonds, confirmed in writing to the Series 2004 Credit Issuer and the Series 2004 Credit Issuer's Fiscal Agent by 12:00 noon, New York City time, on such second business day by filling in the form of Notice of Claim and Certificate delivered with the Series 2004 Credit Facility.

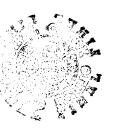
In the event the claim to be made is for a mandatory sinking fund redemption installment, upon receipt of the moneys due, the Bond Registrar shall authenticate and deliver to affected Bondholders who surrender their Series 2004 Bonds a new Series 2004 Bond or Series 2004 Bonds in an aggregate principal amount equal to the unredeemed portion of the Series 2004 Bond surrendered. The Bond Registrar shall designate any portion of payment of principal on Series 2004 Bonds paid by the Series 2004 Credit Issuer, whether by virtue of mandatory sinking fund redemption, maturity, or other advancement of maturity, on its books as a reduction in the principal amount of Series 2004 Bonds registered to the then current Bondholder, whether DTC or its nominee or otherwise, and shall issue a replacement Series 2004 Bond to the Series 2004 Credit Issuer, registered in the name of Financial Security Assurance Inc., in a principal amount equal to the amount of principal so paid (without regard to authorized denominations); provided that the Bond Registrar's failure to so designate any payment or issue any replacement Series 2004 Bond shall have no effect on the amount of principal or interest payable by the City on any Series 2004 Bond or the subrogation rights of the Series 2004 Credit Issuer.

The Paying Agent shall keep a complete and accurate record of all funds deposited by the Series 2004 Credit Issuer into the Policy Payments Account and the allocation of such funds to payment of interest on and principal paid in respect of any Series 2004 Bond. The Series 2004 Credit Issuer shall have the right to inspect such records at reasonable times upon reasonable notice to the Paying Agent.

Upon payment of a claim under the Series 2004 Credit Facility the Paying Agent shall establish a separate special purpose trust account for the benefit of Bondholders referred to herein as the "Policy Payments Account" and over which the Paying Agent shall have exclusive control and sole right of withdrawal. The Paying Agent shall receive any amount paid under the Series 2004 Credit Facility in trust on behalf of insured Bondholders and shall deposit any such amount in the Policy Payments Account and distribute such amount only for purposes of making the payments for which a claim was made. Such amounts shall be disbursed by the Paying Agent to Bondholders in the same manner as principal and interest payments are to be made with respect to the Series 2004 Bonds under the sections hereof regarding payment of Series 2004 Bonds. It shall not be necessary for such payments to be made by checks or wire transfers separate from the check or wire transfer used to pay debt service with other funds available to make such payments.

Funds held in the Policy Payments Account shall not be invested by the Paying Agent and may not be applied to satisfy any costs, expenses, or liabilities of the Paying Agent.

Any funds remaining in the Policy Payments Account following a Payment Date shall promptly be remitted to the Series 2004 Credit Issuer.



- Section 8. Sale of Series 2004 Bonds. The City shall sell the Series 2004 Bonds to the Underwriter for the price of \$890,282,467.37 plus accrued interest to the date of payment and delivery of the Series 2004 Bonds. The Chief Officer is hereby authorized to execute and deliver, on behalf of the City, a purchase contract between the City and the Underwriter, providing for the sale of the Series 2004 Bonds. The execution and delivery of a purchase contract by the Chief Officer shall constitute conclusive evidence of the ratification, confirmation, and approval by the City of the terms and conditions of the purchase contract.
- Section 9. Official Statement. The use and distribution of the Preliminary Official Statement and the Official Statement with respect to the Series 2004 Bonds shall be and is hereby authorized, ratified, confirmed, and approved, and the execution and delivery of the Official Statement in final form shall be and is hereby authorized, ratified, confirmed, and approved. The Chief Officer is hereby authorized and directed to ratify, confirm, approve, execute, and deliver the Official Statement on behalf of the City, and the execution of an Official Statement by the Chief Officer shall constitute conclusive evidence of the Chief Officer's ratification, confirmation, approval, and delivery thereof on behalf of the City.
- Continuance and Effect of Original Ordinance. The City hereby Section 10. confirms the existence and applicability of the Original Ordinance and ratifies, restates, and reaffirms its representations, warranties, covenants, and agreements and all of the applicable terms, conditions, and provisions as set forth in the Original Ordinance and as supplemented and amended by this Supplemental Ordinance. Except where otherwise expressly indicated in this Supplemental Ordinance, the provisions of the Original Ordinance are to be read as part of this Supplemental Ordinance as though copied verbatim herein, and provisions of this Supplemental Ordinance shall be read as additions to, and not as substitutes for or modifications of (except as otherwise specifically provided herein), the provisions of the Original Ordinance. Except as expressly amended, modified, or supplemented by this Supplemental Ordinance, all of the terms, conditions, and provisions of the Original Ordinance shall remain in full force and effect. In executing and delivering this Supplemental Ordinance, the City shall be entitled to all powers, privileges, and immunities afforded to the City and shall be subject to all the duties, responsibilities, and obligations of the City under the Original Ordinance.
- Section 11. <u>Effective Date</u>. This Supplemental Ordinance shall take effect immediately upon its adoption.
- Section 12. <u>Repeal of Conflicting Ordinances and Resolutions</u>. Any and all ordinances and resolutions, or parts of ordinances or resolutions, if any, in conflict with this Supplemental Ordinance are hereby repealed.



Section 13. <u>Bond Ordinance Constitutes a Contract</u>. This Supplemental Ordinance supplements and amends a contract with the Bondholders binding the City, and therefore it is proper and appropriate for the Chief Officer to execute the same on behalf of the City and for the Attesting Officer to attest the same.

CITY OF ATLANTA

(SEAL)	By: Mayor					
Attest:						
Municipal Clerk						
Approved As To Form:						
City Attorney						

A true copy, Rhonda Daughen Johnson Municipal Clerk, CMC ADOPTED by the Council APPROVED by the Mayor

September 15, 2004 September 15, 2004

Atlanta City Council

Regular Session

04-0-1425 ACCEPT AND FIX TERMS OF COA WATER AND WASTEWATER REVENUE BONDS, SERIES 2004 ADOPT ON SUB

YEAS: 10
NAYS: 1
ABSTENTIONS: 0
NOT VOTING: 1
EXCUSED: 0
ABSENT 4

Y	Smith	В	Archibong	N	Moore	_	Mitchell
Y	Starnes	Y	Fauver	В	Martin	Y	Norwood
Y	Young	Y	Shook	Y	Maddox	В	Willis
Y	Winslow	Y	Muller	Y	Sheperd	NV	Borders

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Date Referred Referred To:	Refferred To:	Date Referred	Referred To: Finance / Exec	Date Referred $08/16/04$	_		REGULAR REPORT REFER		SUBSTITUTE CONC.		SEP 1 5 2004	ADOPTED BY	Tabled 9/7/04	FOR OTHER RELATED PURPOSES.		4; TO SPECIF	ATLANTA'S WATER AND WASTEWATER REVENUE BONDS,	AS OF THE CITY	AN OBDINANCE TO ACCEPT AND FIX	BY COUNCILMEMBER DEBI STARNES		AN ORDINANCE	(Do Not Write Above This Line)	04- ○ -1425	
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